

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MARGARET MORGAN,)
Plaintiff,)
v.)
COMENITY BANK,)
Defendant.)
Case No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Comenity Bank, removes this case from the Court of Common Pleas of Lackawanna County, Pennsylvania to the United States District Court for the Middle District of Pennsylvania. In support of this Notice of Removal, Comenity Bank (“Comenity”) states as follows:

I. BACKGROUND

1. On or about August 3, 2017, plaintiff Margaret Morgan (“Plaintiff”) initiated this action by filing a complaint (the “Complaint”) against Comenity in the Court of Common Pleas of Lackawanna County, Pennsylvania, which was styled *Margaret Morgan v. Comenity Bank*, Case No. 17CV4259 (the “State Court Action”).

2. Comenity was served with the Complaint after August 10, 2017. No other documents have been filed in the State Court Action. Pursuant to 28 U.S.C. § 1446(a), Comenity has attached true and correct copies of “all process, pleadings, and orders served” upon Comentiy in the State Court Action as Exhibit A.

3. In the Complaint, Plaintiff asserts a claim under the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, *et seq.* Plaintiff alleges that Comentiy made calls to Plaintiff’s cellular telephone in violation of the TCPA, and based thereon, raises two causes of action for violation of the TCPA and invasion of privacy. *See* Compl. at ¶¶ 7-44.

II. BASIS FOR REMOVAL JURISDICTION

4. This Court has original jurisdiction under 28 U.S.C. § 1331 as Plaintiff alleges violations of a claim or right arising under the laws of the United States.

5. Specifically, Plaintiff alleges that Comenity made calls to Plaintiff’s cellular telephone in violation of the TCPA. *See generally* Compl.

6. Therefore, the Complaint alleges violations of a claim or right arising under the laws of the United States, and as such, this action is subject to removal pursuant to 28 U.S.C. §§ 1331 and 1441 at the request of Comenity.

7. Because Plaintiff's state-law claims arise out of the same facts as those giving rise to the claims under federal law, the Court has supplemental jurisdiction over those claims under 28 U.S.C. § 1337.

III. VENUE

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1331(a) and 1441(a), because the United States District Court for the Middle District of Pennsylvania is the federal court embracing the Court of Common Pleas of Lackawanna County, Pennsylvania, where Plaintiff originally filed the State Court Action.

IV. PROCEDURAL COMPLIANCE

9. Plaintiff served Comenity by mailing a copy of the complaint to Comenity on August 10, 2017. *See* Ex. A.

10. This Notice is timely because it has been filed within the thirty day period prescribed by 28 U.S.C. § 1446(b).

11. The time for Comenity to answer, move, or otherwise plead in the State Court Action in response to the Complaint has not yet expired, and Comenity has not answered, moved, or otherwise responded to the Complaint.

12. The documents attached hereto as Exhibit A constitute all of the process, pleadings, and orders received by Comenity to date.

13. Written notice of the filing of this notice of removal is being forwarded to Plaintiff and to the Court of Common Pleas of Luzerne County, Pennsylvania, pursuant to 28 U.S.C. § 1446(d). *See* Notice of Filing Notice of Removal, attached hereto as Exhibit B.

14. By filing a Notice of Removal in this matter, Comenity does not waive its right to object to service of process, the sufficiency of process, jurisdiction over the person, or venue, and Comenity specifically reserves the right to assert any defenses and/or objections to which it may be entitled.

15. Without conceding the availability of any particular remedy or category of damages, this action involves a controversy arising under the laws of the United States, as appears from the allegations of Plaintiff's Complaint. Accordingly, this action is one over which this District Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331, and this matter may be removed to this Court under 28 U.S.C. § 1441.

WHEREFORE, notice is given that this action is removed from the Court of Common Pleas of Lackawanna County, Pennsylvania, to the United States District Court for the Middle District of Pennsylvania.

Dated: Sept. 11, 2017

Respectfully submitted,

By: /s/ Martin C. Bryce
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Attorneys for Defendant Comenity Bank

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Defendant Comenity Bank's Notice of Removal was served by U.S. Mail, postage prepaid, on this date upon the following:

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Grantham, PA 17027
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By: /s/ Martin C. Bryce
Martin C. Bryce, Jr.,

Dated: September 11, 2017